

STATE OF NEW YORK  
STATE TAX COMMISSION

The taxpayer having filed an application for revision or refund of franchise tax under Article 9-A of the tax law for 1953 and 1954, and a hearing having been held in connection therewith at the office of the State Tax Commission, State Campus, Albany, New York, at which hearing H. Valent, president, and M. Currie, executive director, appeared and the record having been duly examined and considered by the State Tax Commission,

(1) Watkins Glen Grand Prix Corporation ("Grand Prix"), a nonstock corporation, was incorporated in New York State in July 1953 under the Membership Corporation Law. It was organized by the Watkins Glen Chamber of Commerce, Inc. ("Chamber of Commerce") to operate, maintain and promote automobile road racing in the vicinity of Watkins Glen, New York. Its members consist of a board of directors who are appointed by the Chamber of Commerce.

Grand Prix's receipts are derived from the sale of tickets, programs, entry fees, parking fees, concessions, advertising, etc. In the event of dissolution its assets are to be distributed equally to the Chamber of Commerce and the Schuyler County Community Chest.

(2) Grand Prix is subject to the Federal income tax on corporations on the basis that it was organized for the purpose of operating a business for profit. It is required to file a regular corporation income tax return on Federal form 1120.

(3) During the course of a sales tax examination, it was found that taxpayer had not filed franchise tax returns. At the request of the Corporation Tax Bureau the taxpayer filed delinquent returns without a remittance. The Corporation Tax Bureau issued notices of assessment dated November 15, 1972 as follows:

	1953	1954
Minimum tax	\$25.00	\$25.00
Plus statutory charges for delinquency	56.75	53.75
Total amount due	81.75	78.75

(4) Applicable sections of Ruling of the State Tax

Commission issued March 14, 1962 read in part as follows:

"1.1 General. Article 9-A of the Tax Law subjects to franchise tax all corporations which are not subject to franchise tax under some other article of the Tax Law and are not exempt from tax.

"1.3 Definition of Corporation. The term 'corporation' includes an entity created as such under the laws of the United States, any state . . . , which provides a medium for the conduct of business and the sharing of its gains . . . The term 'corporation' does not include a membership or other nonstock corporation unless it is doing business for profit.

"1.6a The term 'doing business' is used in a comprehensive sense and includes all activities which occupy the time or labor of men for profit. Irrespective of the nature of its activities, every corporation organized for profit and carrying out any of the purposes of its organization is doing business. In determining whether a corporation is doing business, it is immaterial whether its activities actually result in a profit or a loss."

The State Tax Commission hereby

DETERMINES:

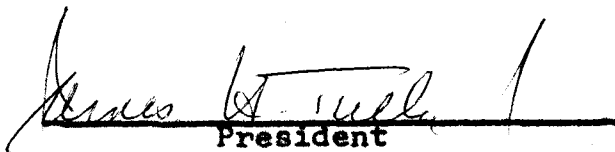
(A) Watkins Glen Grand Prix Corporation is taxable under Article 9-A since it was organized to do business for profit by operating, maintaining and promoting automobile road racing. Its receipts are derived from regular commercial transactions such as sales of tickets, programs, entry fees, parking fees, concessions, advertising, etc. The fact that its assets would be distributed to two tax exempt organizations, Schuyler County Community Chest and Watkins Glen Chamber of Commerce, Inc., in the event of dissolution, does not serve to exempt it from tax. It is a separate entity in the form of a corporation which is carrying on business activities for profit and is therefore taxable.

(B) The notices of assessment indicated at (3) are affirmed.

Dated: Albany, New York

this 3rd Day of July 1975.

STATE TAX COMMISSION

  
President

  
Commissioner

  
Commissioner